



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2300173

Applicant Name: Lukas Delen

Address of Proposal: 104 24th Ave E

SUMMARY OF PROPOSED ACTION

Master Use Permit to divide one lot into four townhouse unit lots. The proposed townhouse unit lot areas are approximately:

- Unit Lot A: 1,063.7 square feet;
- Unit Lot B: 932.4 square feet;
- Unit Lot C: 1,391.1 square feet;
- Unit Lot D: 1,418.4 square feet;

The proposed action is related to MUP No. 2108275 Permit No. 730202 for the construction of two, 2-unit townhouse structures.

The following approvals are required:

Short Subdivision - To divide one parcel into four unit lots.
(Seattle Municipal Code Chapter 23.24)

SEPA - Environmental Determination (Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION: [] Exempt [X] DNS* [] MDNS [] EIS

[] DNS with conditions

[] DNS involving non-exempt grading, or demolition, or
another agency with jurisdiction.

BACKGROUND DATA

Site Description

The approximately 4,800 square foot rectangular proposal site is located in a Multi-Family Residential Lowrise 2 (L-2) zone in between 24th Ave E and 25th Ave E. The proposal site has approximately forty (40') lineal feet of street frontage on 24th Ave E, which is a paved street with curbs, gutters and sidewalks. There is an improved alley adjacent to the site, which provides vehicles access. The site was vegetated with brush, grass and several trees near the perimeter. The site contains Steep Slope (>40%) Environmentally Critical Areas (ECAs) as mapped and designated by the City of Seattle.

Area Development

Zoning in the vicinity is Multi-Family Residential Lowrise 2 (L-2) and development in the vicinity includes a mix of single-and multi-family residences.

Proposal Description

The applicant proposes to short subdivide one lot into four townhouse unit lots. The proposed townhouse unit lot areas are approximately:

- Unit Lot A: 1,063.7 square feet;
- Unit Lot B: 932.4 square feet;
- Unit Lot C: 1,391.1 square feet;
- Unit Lot D: 1,418.4 square feet;

The proposed action is related to MUP No. 2108275 Permit No. 730202 for the construction of two, 2-unit townhouse structures, which are currently being constructed on site.

Public Comments

The public comment period for the proposed project ended on February 13th, 2003. No public comment letters were received during the public comment period.

ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Design, Construction and Land Use (DCLU); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and review by the Land Use Planner.

1. *Conformance to the applicable Land Use Code provisions;*

The existing parent lot subject to this subdivision conforms to all development standards of the L-2 zone. The parent lot configurations provide adequate buildable area to meet applicable density, setbacks, lot coverage requirements and other land use code development standards. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and code provisions applicable to unit lot subdivisions. Any new development must conform to land use policies and code requirements at the time of application.

2. *Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005;*

Each of the proposed unit lots will have adequate access via either direct frontage on 24th Ave East or through an easement accessed via the adjacent alley to the rear of the parent lot. Unit lots A and B have approximately twenty (20') lineal feet of frontage each on 24th Ave East. Unit lots C and D to the rear of the parent lot, have adequate access via the proposed ingress, egress, and utilities easement from the adjacent alley. However, an area for the posting of the address for unit lots C and D in a location visible from 24th Ave E must be provided together with a covenant to ensure the signage is maintained.

The Seattle Fire Department has reviewed and approved this proposal for adequacy of access for emergency vehicles.

Seattle City Light provides electrical service to the subject property and has indicated an easement is required. The easement described as "Exhibit A to City of Seattle Short Subdivision No. 2300173" shall be included on the final plat prior to recording.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

The proposed unit lot subdivision has a related and issued construction permit, and the construction of the approved development has commenced. Compliance with the Stormwater, Grading and Drainage Control ordinance was reviewed in conjunction with the application for building permit, MUP No. 2108275 Permit No. 730202. The existing structure located upon the proposed unit lot sub-division is connected by means of a 15-inch public sewer (PS) in E Denny Way. Seattle Public Utilities reviewed the unit lot subdivision application and approved a Water Availability Certificate, No. 2003-0119 on February 6th, 2003. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed unit lot subdivision is consistent with development anticipated in an L-2 zone and meets the minimum provisions of the Seattle Land Use Code. The proposal meets all applicable criteria for approval of a short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

A full Environmentally Critical Area (ECA) exemption was issued on February 15th, 2002 by DCLU, therefore exempting the steep slope development requirements for MUP No. 2108275 Permit No. 730202. Further, Seattle Municipal Code 25.09.180-D2 specifically states that *“Steep Slopes Resulting from Rights-of-way Improvements. Steep slopes resulting from street, alley, sidewalk and other typical rights-of-way improvements, including rockeries or retaining walls, may be exempted from compliance with the environmentally critical areas regulations. This exemption shall not extend beyond the cut or fill created by the street, alley, sidewalk or other rights-of-way improvement, and does not release the applicant from any applicable geotechnical review requirements under the Stormwater, Grading and Drainage Code. **This exemption shall not be allowed for short subdivision or subdivision applications.**”*

6. *Is designed to maximize the retention of existing trees;*

The Screening and Landscaping Requirements of SMC 23.45.015 require trees for new development in Lowrise zones and was reviewed for consistency under MUP No. 2108275 Permit No. 730202.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

Section 23.24.045 of the Seattle Municipal Code provides that under certain circumstances some types of parcels may be created that do not individually meet the zoning requirements for lot size, setbacks, density, and structure width and depth. These types of parcels are called unit lot subdivisions and may be permitted as long as the development as a whole meets development standards. However, as a result of this subdivision, development on the individual unit lots may be non-conforming. To assure that future owners have constructive notice that additional development may be limited due to non-conformities; the following statement shall be required to be included as a note on the final short subdivision: “The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code.”

DECISION - SHORT SUBDIVISION

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

ANALYSIS - SEPA

The proposal site is located in Steep Slope (>40%) Environmentally Critical Areas (ECA) and pursuant to Seattle Municipal Code 25.09.180-D2, this short subdivision is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist (prepared January 20th, 2003), and supplemental information in the project file submitted by the applicant. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Some short-term adverse impacts are anticipated from the proposal.

The SEPA Environmentally Critical Areas Policy (SMC 25.05.908) provides a listing of categorically exempt activities in certain environmentally critical areas as mapped and regulated in SMC 25.09, Regulations for Environmentally Critical Areas. These ECAs are subject to additional environmental review to determine impacts and, if warranted, to provide further mitigation beyond the development standards required by all City codes. Thus, a more detailed discussion of some of the impacts is appropriate.

Short - Term Impacts

The following temporary impacts are expected: 1) temporary soil erosion; and 2) loss of soil stability. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794).

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Building Code (construction measures in general); and 2) Stormwater, Grading, and Drainage Control Code (temporary soil erosion). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient current and

long term mitigation; Imposing specific conditions is not necessary for these impacts. However, the proposal site is located in a Steep Slope Environmentally Critical Area.

Earth

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. As a result of a full ECA exemption issued on February 15th, 2002, steep slope regulations were exempted for the related building permit, MUP No. 2108275 Permit No. 730202. A geo-technical evaluation was submitted on January 20th, 2002, which “geo-technically approved the site for the proposed multi-unit project, subject to recommendations.” Pursuant to Seattle Municipal Code 25.09.180-D2, Environmentally Critical Area and Steep Slope Resulting from Rights-of-way Improvements, “This exemption shall not be allowed for short subdivision or subdivision applications,” therefore SEPA analysis is required.

Long - Term Impacts

There are no significant long-term impacts to the ECA resulting from the proposed subdivision and construction. No conditioning is warranted per SEPA policies.

Summary

City codes and ordinances adequately regulate and provide extensive conditioning authority to mitigate the potential impacts to earth as identified in the foregoing analysis. There are no significant long-term impacts anticipated to affect the ECA.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

CONDITIONS - SHORT SUBDIVISION

Prior to Recording

The owner(s) and responsible party(s) shall:

1. Provide final recording forms and fees. Have the final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel or tract created by the short subdivision shall be surveyed in the field and all property corners set in conformance with appropriate state statute. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown, as well as all structures and distances from them to the proposed property lines. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. A licensed surveyor shall stamp the short plat drawings.
2. Insert the following on the face of the plat: "This site includes designated Steep Slope areas, although an exemption from compliance with the environmentally critical areas regulations was issued on February 15th 2002, pursuant to Seattle Municipal Code 25.09.180-D2."
3. Attach a copy of the submitted topographic survey delineating Steep Slope ECA on site.
4. The Seattle City Light easement described in the Seattle City Light memorandum, "Exhibit A to City of Seattle Short Subdivision No. 2300173" shall be included on the final plat prior to recording.
5. Have final recording documents show a two-foot pedestrian easement along the south two (2') feet of the west (41.81') feet of unit lot A, and also show the pedestrian easement located on the adjacent Lot 1 to the south as being the north (2') two-feet of the west (41.81') feet of Lot 1 and specify in the legal description where these easements are located.
6. The applicant shall add a note to the face of the plat stating: "The lots are not separate buildable lots. Additional development on any individual lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land use Code, Chapter 23 of the Municipal Code."

7. Provide a joint maintenance and responsibility agreement for maintenance and use of shared walls on property lines and all ingress, egress and utility easements, if necessary.
8. Provide an area for the posting of address signs for unit lots C and D at a location visible from 24th Avenue East and provide a covenant and/or an easement to ensure that the address signage will be maintained.

Signature: (signature on file) Date: April 3, 2003

Lucas J DeHerrera, Land Use Planner
Department of Design, Construction and Land Use
Land Use Services

LJD:bg

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